

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VISHAL SINGH UPPAL,

Plaintiff,

v.

JOSEPH WILLIES *et al.*,

Defendants,

Case No. C06-5167FDB

REPORT AND
RECOMMENDATION

**NOTED FOR:
December 8th, 2006**

This 42 U.S.C. § 1983 Civil Rights/Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's second motion asking for stay of his "order of deportation and removal" pending further proceedings. (Dkt. # 28). Plaintiff filed his first motion on August 14th, 2006 (Dkt. # 13). On September 14th, 2006 the court issued a report and Recommendation that the motion be denied (Dkt. # 17). On October 26th, 2006 Mr. Uppal filed this motion asking that the order of deportation be stayed pending a ruling on his first motion to stay (Dkt. # 28). One day later the court adopted the Report and Recommendation and denied the original motion to stay deportation (Dkt. # 29). The remainder of the discussion in this Report and Recommendation is identical to the discussion in the September Report and

1 Recommendation.

2 This action originally contested conditions of confinement at the Northwest Detention Center, not the
3 fact or duration of confinement or ongoing deportation proceedings. Issues of deportation, removal and fact of
4 confinement are issues that must proceed in Habeas Corpus. The court may not consider these issues in a Civil
5 Rights or Bivens action. See, generally Preiser v Rodriguez, 411 U.S. 475 (1973).

6 Mr. Uppal earlier filed a Habeas Corpus Petition in the United States District Court for the Western
7 District of Washington in Seattle regarding his deportation. (Dkt. # 14, page 1, footnote 1, identifying C06-
8 261JLR).

9 On July 27th, 2006 the United States District Court for the Western District of Washington at Seattle
10 denied plaintiff's habeas petition. By order dated August 10th, 2006 the Ninth Circuit denied plaintiff's motion
11 to stay removal pending appeal. (Dkt. # 14, page 3).

12 This court may not consider the issues of deportation or removal in this Civil Rights action. The
13 motion to stay deportation or removal can not therefore be entertained on the merits. A proposed order
14 accompanies this Report and Recommendation.

15 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
16 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
17 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
18 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
19 set the matter for consideration on **December 8th, 2006**, as noted in the caption.

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21 DATED this 20th day of November, 2006.

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23 /s/ J. Kelley Arnold
24 J. Kelley Arnold
25 United States Magistrate Judge
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